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Executive Director

Barbara J. Hill

July 10, 2006

Howard B. Bernstein
RPS Program Manager
Massachusetts Division of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114

Sent via email to doer.rps@state.ma.us

**RE: Comments on Proposed Revision of RPS Regulations
and Draft Biomass Eligibility Guideline**

Dear Mr. Bernstein:

Thank you for providing Clean Power Now the opportunity to comment on the proposed changes to 255 CMR 14.00 Renewable Energy Portfolio Standard (RPS) Regulations and Guideline on RPS Eligibility of Biomass Generation Units (Guideline) issued by the Division of Energy Resources (the Division) on June 2, 2006.

Clean Power Now is a non-profit volunteer organization with over 5,500 members that supports viable renewable energy projects. The Massachusetts Renewable Portfolio Standard (RPS) is an effective means of increasing the economic viability of new renewable energy projects. We have a strong interest in maintaining the integrity of the RPS regulations to insure that the economic incentive remains intact. We believe it is crucially important that Renewable Energy Credit (REC) prices not be undermined by relaxing the standard to allow eligibility for old units or non-renewable fuels. We believe the Division understands this as well, as evidenced by the following quote from the Policy Statement on Retooled Biomass Plants issued on October 27, 2005:

*"The risk of dramatically reduced REC prices, potentially well below the long-term marginal cost considered necessary to stimulate new renewable energy development, is likely to undermine the financial projections on which new development relies to obtain construction financing."*¹

¹ <http://www.mass.gov/doer/rps/rps-pol-stat-elig-biomass.pdf>

www.cleanpowernow.org
E-mail: windfarm@cleanpowernow.org
Phone: (508) 775-7796
Fax: (508) 775-7782

Clean Power Now
297 North Street
Suite 322A
Hyannis, MA 02601

The RPS statute (M.G.L. §25A, sec. 11F) is clearly intended to promote the development of new renewable energy generating sources. A changing regulatory framework can have a significant negative impact on investor confidence in new renewable energy development. We appreciate the Division's thoughtful and deliberate consideration of any changes, and are pleased to submit the following specific comments.

Construction and Demolition (C&D) Wood

Section 14.02 of the proposed regulation includes C&D wood as an eligible biomass fuel with the potential to qualify for REC's. Clean Power Now is strongly opposed to this provision for several reasons. First, inclusion of C&D wood as RPS eligible could have a very marked effect on the price of REC's and therefore could significantly slow the development of new renewable resources. Second, we see the potential for air quality degradation resulting from the potential contaminants in C&D material, such as arsenic from pressure treating and lead paint. We believe the primary methods of dealing with the accumulation of construction and demolition waste should be recycling and reclamation, not combustion, and therefore we oppose inclusion of C&D material as an RPS-eligible fuel.

Advanced Biomass Power Conversion Technologies

During the stakeholder process in the re-tooled biomass plant policy statement, there was significant discussion on the ramifications of including stoker and pile-burn combustion technologies as advanced biomass power conversion technologies. In our written comments during that process², Clean Power Now expressed our view that these technologies should remain specifically excluded in the regulation as they are in the statute. We believe that this is in accordance with the intent of the legislature³.

In our written comments on the re-tooled biomass plant policy statement, we also referred to several other technologies that we believe should not qualify, and we refer you to that document.

Net Heat Rate

The Division included evaluation of net heat rate in the Guideline as a measure of efficiency and one of the primary considerations in determining if a particular process meets the criteria of "advanced biomass power conversion technology." Clean Power Now provided comments on heat rate as a criterion during development of the re-tooling policy, and we refer the Division again to those comments. In addition, heat rate includes the entire power conversion process, from fuel to electricity. Accordingly, there may be factors that influence heat rate that have little or nothing to do with the renewable energy merits of a project. For instance, dry cooling for steam condensers (commonly referred to as air-cooled condensers or ACC's) have a negative impact on plant heat rate when compared to cooling towers, but provide the significant environmental advantage of not consuming copious amounts of water. For this and reasons mentioned previously, we caution the Division against relying too heavily on heat rate as a criterion.

² <http://www.mass.gov/doer/rps/pal-add.pdf>

³ This provision is in accordance with the report from the Joint Committee on Energy sent to Commissioner O'Connor by the joint chairs, Representative John Binienda and Senator Susan Fargo, on March 6, 2002.

Re-Powering

Clean Power Now supports the “80% guideline” that has been advanced during this current rule-making process, and during last summer’s Notice of Intent stakeholder process. In order to qualify as a new renewable resource, an existing biomass generating facility must demonstrate that 80% of the resulting tax basis of the entire plant and equipment derives from capital expenditures made after December 31, 1997. This requirement is in addition to satisfying the low emission and advanced combustion technology requirements.

Thank you for your consideration of our comments.

Submitted by:



Barbara J Hill
Executive Director
Clean Power Now

Prepared by:



Matthew A. Palmer, PE